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EXAMINER

LUECKE, R

ART UNIT

PAPER NUMBER

10

DATE MAILED:

06/06/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined. ☒ Responsive to communication filed on April 25, 1994 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 16-25 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☒ Claims 1-15 have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 16-25 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

1. The drawings remain objected to because reference numeral "14" is used in the specification (page 4, line 7), but is not found in the figures. Proposed drawing corrections are required in response to this Office action.

2. The disclosure remains objected to because on page 6, at lines 1 and 7, "suspenders" should be -shoulder strap assembly- in order to maintain consistent terminology. Appropriate correction is required.

3. Claims 16-25 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 contains two periods in the middle of the claim. Claims may be presented in one sentence form only.

In claim 16 there is no antecedent basis for "the back" on line 1, "the shoulder straps" on line 43, "the forward ends" on lines 51-52 or "said waist strap portion" on line 61.

On line 17 of claim 16, it appears that "end" should be -and-.

In claim 16, the spelling of "shoulder" should be corrected on, at least, lines 33 and 52.

On line 45 of claim 16, it appears that -the- should be inserted after "with."

On line 58 of claim 16, it appears that "persons" should be changed to -person-.

On line 68 of claim 16 "a should be -the- as the waist location has been previously introduced.

Contrary to lines 77-78 of claim 16, the vertical force components are not *between the front and rear panels*. The vertical force components are *on* the front and rear panels at the exterior, where the straps attach to the front and rear panels.

On line 80 of claim 16, it is unclear what is meant by

"central locations." Is this the same as the central location mentioned on line 76?

In claim 19, there is no antecedent basis for "the length."

In claims 21 and 22, there is no antecedent basis for "the appropriate length dimensions."

On the last line of claim 23, it appears that "at each" should be deleted.

4. The following is a quotation of 35 U.S.C. §103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16, 17 and 23 are rejected under 35 U.S.C. §103 as being unpatentable over Bannister in view of Myatt. The backpack of Bannister comprises a pouch 14, straps having back, shoulder and front sections, and a waist strap. The pouch comprises front and rear panels 26, 28, side portions at the stitching, a top portion 16, 18 and a bottom portion 32. The back strap section comprises that portion of the straps which extend from the top portion of the pouch to the wearer's shoulders. The shoulder strap section comprises that portion of the straps 46, 48 that extend over the wearer's shoulders. The front strap section comprises straps 54, 56 and connects to the pouch at forward side connecting locations 20, 22. The waist straps 58, 60 have rear ends connecting to respective side portion 20, 22 of the pouch and front ends that connect to each other at the buckle 62, 64. The pouch is located, positioned and supported as claimed. It lacks only in that the

back strap section is not connected at a central rear location of the pouch. However, the pouch of Myatt teaches that the back strap section comprise a lower back central strap 11 and then right and left back strap portions which extend to the shoulder strap sections. The central strap is attached to the pouch 3 at a central rear location. As stated by Myatt, this type of connection is used so that the pouch is firmly secured to the wearer's back. As that is a goal of any backpack, it would have been obvious to use such a strap arrangement on the backpack of Bannister.

6. Claims 18-22 are rejected under 35 U.S.C. §103 as being unpatentable over Bannister and Myatt as applied to claims 16 and 17 above, and further in view of Marttinen. The carrying device of Marttinen comprises adjustment means on each section of the straps. As is well known, such an arrangement allows for complete adjustability of the straps and optimum comfort for the wearer. As one carrying a pouch such as that of Bannister or Myatt would prefer to be able to adjust the device for their own body and thereby optimize comfort, it would have been obvious to form the various strap portions of Bannister with adjustment means as taught by Marttinen.

7. Claims 24 and 25 are rejected under 35 U.S.C. §103 as being unpatentable over Bannister and Myatt as applied to claims 16 and 23 above, and further in view of Smith. The pack of Smith teaches the use of adjustable auxiliary waist straps in order to add additional stability to the pouch. For the same reason, it would have been obvious to add such auxiliary straps to the pack of Bannister.


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The strap arrangement of Harrow is a further example of adjustment means on each section of

the straps. The backpacks of Huber and Rubenson are further examples of packs with back straps attached to the rear of the pouch and front straps attached to front lower portions of the pouch.

9. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. §706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. §1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee S. Luebke whose telephone number is (703) 308-1511.


Renee S. Luebke
Primary Patent Examiner
June 1, 1994